

Memorandum

Date : August 1, 2000

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To : Robert A. Laurie, Presiding Member
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Pastoria Siting Committee

: **California Energy Commission - Kae C. Lewis**
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Subject : **PASTORIA ENERGY FACILITY STATUS REPORT #4 – August 1, 2000**

The Energy Commission staff filed the Pastoria Energy Facility (PEF) Preliminary Staff Assessment (PSA) on July 14, 2000. A public workshop on the PSA will be held in Bakersfield on August 3. The next major step in the AFC process is the filing of the Final Staff Assessment (FSA). On July 16 the Applicant sent a letter to Bob Therkelsen with a schedule proposal for the FSA, formal hearings and the Presiding Member's Proposed Decision (PMPD). On July 18, the Applicant sent a letter to Commissioner Bob Laurie with a schedule proposal for key events in the completion of the AFC for the Pastoria Energy Facility.

The purpose of this Status Report is to briefly identify the PSA's key issues and progress toward their resolution, describe the work which the staff believes remains to be completed before a FSA can be filed, and propose a schedule for the filing of the FSA and the completion of the AFC process.

Key PSA Issues and Progress Toward Resolution:

Air Quality: Because the PEF project will have significant environmental impacts on air quality, mitigation measures have been proposed which include state of the art combustion technology, post-combustion control technology, and emission reduction credits (ERCs or offsets) as required by San Joaquin Valley Air Pollution Control District (District). The post-combustion control technology proposed by the Applicant is the new XONON system that is not yet a proven technology for the F class turbines proposed for PEF. In the event that XONON is not available for the PEF, the applicant is proposing as an alternative to XONON technology, the use of the SCR (selective catalytic reduction) system to control NO_x emissions. The SCR process uses ammonia to control NO_x emission and can result in the emittance or "slip" of excess of ammonia. In the PSA the staff recommends that ammonia slip be limited to 5 ppm which is less than the Applicant's and District's proposed ammonia slip of 10 ppm. The staff's recommendation is consistent with recent directives from both the California Air Resources Board and the U.S. Environmental Protection Agency. The staff believes that this control level is necessary because ammonia slip contributes to the formation of secondary particulates (PM₁₀) and the project area already experiences violations of the federal and state PM₁₀ standards.

On July 24 the Applicant sent a letter to the staff project manager indicating that they intend on pursuing the 10 ppm recommendation which they expect to be consistent with

the Final Determination of Compliance (FDOC). If that is the case, this issue may remain unresolved between the Applicant and staff. The applicant and District expect the FDOC will be issued no later than August 2. The staff can complete the air quality section of the FSA about 14 days after the FDOC is issued by the District; expected completion is mid-August.

Biological Resources: Activities have taken place on PEF's mitigation plans to comply with the federal Endangered Species Act (ESA) and receive an incidental take permit. The U.S. Fish and Wildlife Service (USFWS) requires PEF to provide a Habitat Conservation Plan (HCP) as directed by Section 10 (ESA). This plan must provide (a) permanent conservation set-aside for the power plant site to mitigate for temporary and permanent disruption to endangered species (kit fox) habitat, and (b) an additional conservation easement near the power plant to mitigate for the potential taking of habitat within the kit fox movement corridor.

To comply with (a), PEF is making arrangements for the permanent conservation set-aside which will most likely be at Lokern Preserve. These arrangements are progressing smoothly. To fulfill requirement (b), PEF is securing with Tejon Ranch Corporation, the landowner, a conservation easement around the power plant. This easement agreement or deed (Appendix B of the HCP) exists in draft form. The Applicant is still negotiating deed language with Tejon Ranch and USFWS. A revised deed is expected by August 22.

The documentation required by the USFWS to issue an incidental take permit includes the HCP and its Implementing Agreement, the Biological Opinion, and either an Environmental Assessment or an Environmental Impact Statement (USFWS has not determined which is necessary). The Applicant submitted a draft HCP to the USFWS on July 10 but has not yet received comments. USFWS is also not able at this time to provide a schedule for the completion of these documents. It is the opinion of staff, however, that there is enough evidence of progress for an FSA to be completed once the final version of the easement deed has been approved by the USFWS. If this effort stays on schedule, a FSA recommendation can be completed by the third week in August.

The Energy Commission has recently been contacted (for the first time) by the Audubon Society and Sierra Club of Kern County. At this point they have expressed interest in this project and will attend the PSA workshop on August 3. The staff biologist for the PEF project (Rick York) has answered their initial questions about the project and the AFC process. To our knowledge, these groups are not planning to intervene.

Land Use: As part of the project, the applicant proposes to create a new 30-acre parcel from sections of two existing parcels. Because PEF will lease land for the proposed plant from the Tejon Ranch Corporation, the Kern County Planning Department determined that PEF must file an application for either a lot line adjustment or parcel map. PEF has submitted a parcel map for the project to Kern County for their review. Under the Kern County Land Division Ordinance, Kern County must provide an

opportunity for public participation in the review process for approval of a parcel map. One of the existing parcels is currently in the Williamson Act for agricultural land conservation and cancellation is required. Kern County has statutorily exempted the parcel map application and cancellation of the Williamson Act from the requirement of preparing an environmental document. This is pursuant to Section 15271 of the State CEQA guidelines that shifts the responsibility for the environmental document to the regulatory agency (i.e., California Energy Commission). It is the staff's responsibility to include in the FSA the environmental impacts, if any, of these two actions taken by Kern County.

On July 20 Kern County conveyed their schedule for processing both the parcel map and the Williamson Act cancellation. Their Planning Department is currently reviewing the Applicant's parcel map application and will return comments by August 1. When acceptance of the application is complete, it will be scheduled for a hearing by the Director of the Kern County Planning Department. The Notice of Decision, available 7 days after the hearing is subject to a 10 day appeal period. If an appeal is received within those 7 days, the matter is then scheduled for the Kern County Board of Supervisors within 30 days.

Williamson Act cancellation for the PEF project requires a recommendation from the Kern County Planning Commission. The Williamson Act request is currently being reviewed by Planning staff and a hearing by the Planning Commission has been scheduled for August 24, 2000. The Kern County Board of Supervisors is scheduled to hear the PEF cancellation request on September 12, 2000.

The staff believes that it can complete the Land Use FSA recommendation by mid-August by creating conditions of certification that stipulate the completion of these land use actions by Kern County.

Soil and Water Resources: The Wheeler Ridge-Maricopa Water Storage District (WRMWSO) will provide the PEF project with its primary water supply from the California Aqueduct, however, the PEF project may only be able to count on this surface water 50–60 percent of the time. To fill this gap, PEF has developed a backup supply of water through the brokering services of Azurix, a private water management firm. Azurix plans to purchase options to banked groundwater in the aquifer underlying Kern County Water Agency (KCWA). Azurix will use the groundwater to execute exchange agreements with water district members of the KCWA for their State Water Project (SWP) water allocations which will then be delivered to PEF through the California Aqueduct. The staff's concerns about PEF's backup water supply included the nature of the conditions and restrictions under which Azurix can purchase and recover banked groundwater; the conveyance arrangements for the backup water supply through capacity in the California Aqueduct; and, the proof of environmental review associated with these banked water supplies and their recovery. In the last two weeks the staff has received enough information from the Applicant and appropriate water agencies to address these concerns and complete a FSA recommendation by the third week in August.

Visual Resources: Visible plumes, which are created by the condensation of water in moist emitted air, are produced by both the heat recovery steam generators (HRSG) and the cooling towers. Plumes from the cooling towers have been determined to result in less than significant visual impacts, however, at the time of the PSA, staff had insufficient information to make a determination of significance related to the HRSG stack plumes.. Staff made a data request of the Applicant on July 18 and received information from the Applicant on July 24. Staff is currently reviewing the information provided and will be able to make a determination of significance and a FSA recommendation by mid-August.

In two other technical areas, *cultural resources* and *transmission system engineering*, while analyses were complete enough to make a PSA recommendation, additional work needs to be performed before a Final Staff Assessment (FSA) can be completed. In *cultural resources*, final test results of certain archaeological sites provided by the applicant on May 31, 2000, must be incorporated. The staff believes that this work can be performed and a FSA recommendation completed by mid-August.

In *transmission system engineering*, staff must incorporate information and conditions from Southern California Edison's Detailed Facilities Study (DFS) on transmission interconnection for the PEF project. The DFS must also be reviewed and approved by the CAL-ISO who may include conditions that must be considered in the Energy Commission's AFC process. This document was unavailable at the time of the PSA and is not scheduled to be released from Southern California Edison until late July or early August. It will then be submitted to the CAL-ISO who may take up to 14 days to review. Energy Commission staff can complete their FSA recommendations and conditions in transmission system engineering after they receive the DFS with CAL-ISO approval (probably in the third week of August).

Schedule to Complete FSA for the PEF Project:

Below is a table which describes the work which remains to be completed by Energy Commission staff before a FSA can be filed for the PEF project. The first five technical areas (air quality, biological resources, land use, soil and water resources, and visual resources) contain "unresolved issues" identified in the PSA which precluded staff recommendations. The next two technical areas (cultural resources and transmission system engineering), while allowing for staff recommendations, require additional work. The date on which a FSA can be filed will depend on variables indicated in the table below. If remaining work stays on schedule, and outstanding documents are received on time, the staff can produce a complete FSA by August 31, 2000.

Staff Efforts Required to Complete the Pastoria Energy Facility FSA

Technical Area	Status of PSA Section	Impact of Revision	Time Needed to Submit FSA; Due Date (to PM)
<i>Air Quality</i>	Did not include the FDOC which was not completed at time of PSA; ammonia slip issue unresolved	May result in additional conditions	Fourteen days after receiving FDOC; mid-August
<i>Biological Resources</i>	HCP had not been reviewed by USFWS; easement with Tejon Ranch not completed	FSA recommendation cannot be made without easement completed	Third week of August
<i>Land Use</i>	Did not include schedule of Kern County's land use decisions	May result in additional conditions which stipulate completion of County land use decisions	Mid-August
<i>Soil/Water Resources</i>	Did not contain sufficient information on backup water supply	FSA recommendation can now be made	Third week of August
<i>Visual Resources</i>	Required additional simulations of HRSG plumes to determine potential significant impacts	May result in significant impacts and mitigation measures	Mid-August
Cultural Resources	PSA did not include final test results	Test results may lead to additional mitigation and conditions	Mid-August
Transmission System Engineering	Did not include DFS which was not completed by SCE in time for PSA	Incorporation of DFS and CAL-ISO approval may result in additional conditions	Two days after receiving CAL-ISO approval of DFS 3 rd week
Efficiency/Reliability	Complete	ALL SECTIONS BELOW CAN BE SUBMITTED TO PM BY MID-AUGUST	ALL SECTIONS BELOW CAN BE SUBMITTED TO PM BY MID-AUGUST
Facility Design	Complete		
Geology/Paleo	Complete		
Hazardous Materials	Complete		
Noise	Complete		
Public Health	Complete		
Socioeconomics	Complete		
T-Line Safety Nuisance	Complete		
Traffic Transportation	Complete		

Technical Area	Status of PSA Section	Impact of Revision	Time Needed to Submit FSA; Due Date (to PM)
Waste Management	Complete		
Worker Safety	Complete		
Alternatives	Complete		
Compliance	complete		

Schedule for the Remainder of the AFC process for Pastoria Energy Facility:

If the FSA for the PEF project is filed by August 31, the following complete schedule for the project is suggested. Staff has proposed dates for some events in the schedule that could result in an early decision for the PEF project. These events include a combined Status and Prehearing Conference, allowing use of declarations for testimony in 13 uncontested technical areas (and unchanged from PSA to FSA), and developing an early Presiding Member's Proposed Decision that can be initiated before hearings begin for the 13 uncontested technical areas and finalized after the remaining 7 technical areas are heard at evidentiary hearings. Although this proposed schedule results in a decision in is less than 12 months, staff believes that it is warranted because the Applicant has been extremely diligent in resolving issues identified for this project.

Schedule to Complete AFC Process for Pastoria Energy Facility (99-AFC-7)

DATE	EVENT
7-31-00 <i>estimated</i>	Detailed Facilities Study (DFS) from Southern Cal Edison
8-2-00 <i>estimated</i>	FDOC issued from San Joaquin Valley APCD
8-14-00 <i>estimated</i>	CAL-ISO Approval of DFS
8-16-00	Status and Prehearing Conference
8-31-00	Staff files Final Staff Assessment (FSA)
9-15-00	Evidentiary Hearings
10-17-00	Presiding Member's Proposed Decision
11-22-00	Revised Presiding Member's Proposed Decision

cc: Pastoria Energy Facility Proof of Service List